# Tai Chai Yu v
# The Chief Registrar of the Federal Court

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COURT OF APPEAL (KUALA LUMPUR) — CIVIL APPEAL NO Q-01-9 OF 1996
GOPAL SRI RAM, SITI NORMA YAAKOB AND AHMAD FAIRUZ JJCA
29 SEPTEMBER 1997

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***Civil Procedure*** *— Jurisdiction — Federal Court — Whether Federal Court has jurisdiction to review its own decision*

***Civil Procedure*** *— Prerogative writs/orders — Certiorari — Appeal against refusal of leave to apply for — Whether application was frivolous*

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The respondent ('the registrar') rejected the petition filed by the appellant, a solicitor, purportedly invoking the original or consultative or inherent jurisdiction of the Federal Court for the purpose of reviewing a decision of that court given earlier against the appellant's client. The appellant's application for leave to apply for an order of certiorari against the registrar was refused by the judge on the ground that the application was frivolous. The appellant appealed.

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**Held,** dismissing the appeal:

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(1) It is trite law that the Federal Court has no jurisdiction of any sort to re-open and review its decision in a case. Neither the Federal Constitution nor the Courts of Judicature Act 1964 confer any such jurisdiction upon the Federal Court. A final decision of the Federal Court, once pronounced, is binding upon the parties thereto and its correctness may only be questioned in a subsequent case where the identical point of law arises for decision. Furthermore, the appellant was not the person aggrieved by the decision of the registrar. It was his client's petition that the registrar rejected. The appellant was a stranger to the complaint and therefore lacked standing to challenge the decision in question (see p 476E–H); *Lye Thai Sang & Anor v Faber Merlin (M) Sdn Bhd & Ors* [1986] 1 MLJ 166 followed.

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(2) It is settled law that leave to apply for an order for certiorari should not be refused unless the application is frivolous. In the present instance, the judge concluded that the appellant ought not to have leave because the application was frivolous. He was entirely correct in concluding thus. Once the registrar was satisfied that there was absolutely no basis upon which the petition could be received for filing, it was well within his authority to reject the papers which the appellant purported to lodge (see p 476I).

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**[Bahasa Malaysia summary**

Penentang ('pendaftar') menolak petisyen yang difailkan oleh perayu, seorang peguamcara, kononnya dengan menggunakan bidang kuasa

A Mahkamah Persekutuan yang asal atau perunding atau sedia ada untuk tujuan mengkaji semula keputusan mahkamah itu yang diberikan lebih awal terhadap klien perayu. Permohonan perayu untuk kebenaran memohon perintah certiorari terhadap pendaftar ditolak oleh hakim atas alasan bahawa permohonan adalah remeh.
B Perayu membuat rayuan.

**Diputuskan**, menolak rayuan:

(1) Adalah undang-undang mantap bahawa Mahkamah Persekutuan tidak mempunyai apa jua bidang kuasa untuk membuka dan mengkaji semula keputusannya dalam suatu kes. Baik
C Perlembagaan Persekutuan mahupun Akta Mahkamah Kehakiman 1964 tidak mengurniakan apa-apa bidang kuasa pada Mahkamah Persekutuan. Sebaik saja diumumkan, keputusan muktamad Mahkamah Persekutuan mengikat pihak-pihak kepadanya dan kesahihannya hanya boleh dipersoalkan dalam
D kes yang berikutnya di mana hujah undang-undang yang serupa berbangkit untuk keputusan. Tambahan pula, perayu bukanlah orang yang terkilan oleh keputusan pendaftar. Petisyen kliennya yang ditolak oleh pendaftar. Perayu merupakan orang yang tidak dikenali kepada aduan dan maka kekurangan pendirian untuk mencabar keputusan berkenaan (lihat ms 476E–H); *Lye Thai*
E *Sang & Anor v Faber Merlin (M) Sdn Bhd & Ors* [1986] 1 MLJ 166 diikut.

(2) Adalah undang-undang yang mantap bahawa kebenaran untuk memohon perintah certiorari tidak patut ditolak melainkan permohonan yang remeh. Dalam keadaan ini, hakim
F menyimpulkan bahawa perayu tidak patut diberikan kebenaran kerana permohonan adalah remeh. Beliau adalah betul pada keseluruhannya dalam menyimpulkan demikian. Sebaik saja pendaftar berpuas hati bahawa tiada langsung terdapat dasar atas mana petisyen boleh diterima untuk pemfailan, ia terangkum dalam kuasa beliau untuk menolak dokumen yang hendak
G dikemukakan oleh perayu (lijhat ms 476I).]

**Notes**

For cases on jurisdiction of the Federal Court, see 2 *Mallal's Digest*
H (4th Ed, 1994 Reissue) paras 2144–2145.

For cases on prerogative writs/orders, see 2 *Mallal's Digest* (4th Ed, 1994 Reissue) paras 2775–2774.

**Cases referred to**

I *Lye Thai Sang & Anor v Faber Merlin (M) Sdn Bhd & Ors* [1986] 1 MLJ 166 (folld)

*Mohamed Nordin bin Johan v Attorney General, Malaysia* [1983] 1 MLJ 68 (refd)

**Legislation referred to**

Courts of Judicature Act 1964
Federal Constitution

**Appeal from**: Originating Motion No MR 3 of 1995 (High Court, Miri)

Appellant in person.
*Ahmad Razif bin Mohd Sidek* (Federal Counsel) for the respondent.

**Gopal Sri Ram JCA** (delivering judgment of the court): This appeal concerns a short point well covered by authority. The facts of the case have been so admirably summed up in the judgment of Abdul Kadir Sulaiman J that we find their regurgitation unnecessary. Suffice to say that in this case the learned judge refused the appellant leave to apply for an order of certiorari against the Registrar of the Federal Court. The subject matter of the challenge was the decision of the respondent rejecting the petition filed by the appellant, a solicitor, purportedly invoking the original or consultative or inherent jurisdiction of the Federal Court for the purpose of reviewing a decision of that court earlier given against the appellant's client.

Now, it is trite law that the Federal Court has no jurisdiction of any sort to re-open and review its decision in a case. Neither the Federal Constitution nor the Courts of Judicature Act 1964 confer any such jurisdiction upon the Federal Court. A final decision of the Federal Court, once pronounced, is binding upon the parties thereto and its correctness may only be questioned in a subsequent case where the identical point of law arises for decision. These propositions were established by the decision of the Supreme Court in *Lye Thai Sang & Anor v Faber Merlin (M) Sdn Bhd & Ors* [1986] 1 MLJ 166. A similar attempt by the respondent to the appeal in that case met with failure. Abdul Hamid CJ (Malaya) (as his Lordship then was) said (at p 168):

> Where, therefore, a final decision has been delivered, an appeal is in effect heard and disposed of. In other words, it is brought to a final conclusion. And that being the case, the Supreme Court has no power to re-open, re-hear and re-examine its decision for whatever purpose.

In our judgment, the Federal Court is in like position.

Furthermore, the appellant is not the person aggrieved by the decision of the Registrar of the Federal Court. It was his client's petition that the respondent rejected. The appellant is a stranger to the complaint and therefore lacks standing to challenge the decision in question.

It is settled law that leave to apply for an order for certiorari should not be refused unless the application is frivolous. See, *Mohamed Nordin bin Johan v Attorney General, Malaysia* [1983] 1 MLJ 68. In the present instance the learned judge concluded that the appellant ought not to have leave because the application was frivolous. He was entirely correct in concluding thus. Once the registrar was satisfied that there was absolutely no basis upon which the petition could be received for filing it was well within his authority to reject the papers which the appellant purported to lodge.

A Having considered the matter most carefully we found ourselves in agreement with the learned judge. Accordingly we dismissed the appeal but made no order as to costs. The deposit lodged in court was ordered to be refunded to the appellant.

*Appeal dismissed.*

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Reported by Jafisah Jaafar

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